



Bureau of
Driver
and
Vehicle
Records

Court Bulletin

Terri Lynn Land, Secretary of State

www.michigan.gov/sos

No. 44, February 2003

Inside

Drunk Driving Audit
Page 2

Expunction of Entries
Page 2

SBA 645
Page 2

Railroad crossings
Page 3

DOS reorganization
Page 3

**Courts must verify
abstracts**
Page 4

**Reciprocal Driving
Privileges**
Page 4

**Repeat Offender
Statistics**
Page 4

Reciprocity
Page 5

Training for Court Personnel

A "Repeat Offender Update Seminar" for District Court Probation Officers was held Thursday, January 16, 2003 from 1:00 pm – 4:00 pm at the Michigan Hall of Justice in Lansing. Offered by the Michigan Judicial Institute, this seminar emanated from Lansing Community College and was transmitted, via videoconference, to remote areas throughout the state. This program is funded by the Michigan Office of Highway Safety Planning, and the U.S. Department of Transportation Federal Highway Administration.

Additional training for court personnel will also be offered through the Michigan Judicial Institute (MJI) "How to Read a Driving Record" on April 15, 2003, this will be presented via the web. Please watch for notification for this training seminar.

Fleeing & Eluding

The difference between the Fleeing and Eluding Statute in the Motor Vehicle Code (257.602a) and the Fleeing and Eluding in the Penal Code (750.479a) is:

According to the Motor Vehicle Code statute, Fleeing and Eluding cannot be reduced to an attempted offense. MCL 257.204b(2) states, "the court shall impose a criminal penalty for a conviction of an attempted violation of this act . . . in the same manner as if the offense had been completed."

If a defendant pleads to Attempted Fleeing and Eluding under MCL 257.602a, the court must treat the offense with the same penalty as the original offense. Attempted Fleeing and Eluding 4th degree is still considered a two-year felony; however, fleeing and eluding under the Penal code does not have that provision. Attempted Fleeing and Eluding 4th degree under the Penal Code is a one-year misdemeanor. The licensing sanctions on a driver's license are not affected by either provision. The impact on the defendant's license is the same as if the defendant was convicted of the original charge, MCL 257.204b(1).

This raises another issue. Many times a Fleeing and Eluding 4th Degree charge is reduced to "attempted" in District Court. However, under the Motor Vehicle Code, the penalty is still a two-year felony and is outside the court's jurisdiction to sentence the defendant.

To complicate matters, when the District Court sends the abstract of conviction on an Attempted 4th Degree Fleeing and Eluding, to the Secretary of State, the Secretary of State still considers it a felony and treats it as such. This happens with either provision because the District Court has no jurisdiction to handle a felony.

This article was taken and quoted from the Green Light News, David J. Wallace, Prosecuting Attorneys Association of Michigan, used with permission, <http://www.adobe.com/products/acrobat/readstep2.html>

SB645, PA 422

Effective October 1, 2002

The 2002 Drunk Driving Audit

The 2002 Drunk Driving Audit will be complied in April of 2003. Please make sure that all sentencing documents are submitted by the middle of March, 2003.

Expunction of Entries on Master Driving Record

The Michigan Department of State has received court orders directing the department to expunge all entries from the driver's Master Driving Record when an incident has been acquitted or dismissed. Section MCL 257.732(20) prohibits expunction of any violation reportable to Secretary of State under MCL 257.732.

Courts are also reminded that under section MCL 257.732(1)(b) of the Michigan Vehicle Code, courts are required to report acquittals and dismissals to the Secretary of State in cases charging drunk driving violations.

Section	Offense Code	Offense
750.411a(2)	9210	False Report or Threat of Bomb/Harmful Device (School)
750.327		Death due to explosives
750.328		Death due to explosives; intent to destroy Bldg. or object

A licensed person age 14 through age 20 will receive a 1 year suspension, imposed by the Secretary of State, followed by 730 days of restrictions.

An unlicensed person younger than 14 will be denied graduated licensing training until age 16 and no license until age 17.

An unlicensed person age 14 through age 20 will be denied graduated licensing training or license for three years.

All licensing sanctions are based from conviction date or juvenile disposition.

Felony – no points – non-moving violation – eligible for FAC/FCJ

No hardship appeal to Circuit Court or Driver License Appeal Division

Not eligible for a Driver Assessment Re-examination

If guilty of a felony: punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both. If guilty of a second or subsequent felony conviction: punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

New Crimes

Railroad Crossing Offense Codes SB 1232

Effective October 1, 2002

Department of State Reorganization

2451 Failed to Obey Railroad Crossing Restrictions

Failure to cross tracks without changing gears 49 C.F.R.392.10

Failure to activate hazard warning lights at railroad crossing MCL 257.669(1)

Stopped too close to railroad crossing MCL 257.667(1)

2 points will be assessed regardless of type of vehicle. CMV or Passenger vehicle type is required. If no vehicle type submitted, an error will be received by the court.

2452 Failed to Obey Traffic Control Device or Enforcement Official at Railroad Crossing

Failure to stop at railroad crossing MCL 257.667(1)

Disobey stop sign at railroad cross, MCL 257.668(1)

Disobey stop sign at railroad crossing with monitoring device, MCL 257.667(a)

Drove around railroad gates, MCL 257.667(2)

Drove through red railroad signal, MCL 257.668

Disobey police officer at railroad crossing, MCL 669a(2), MCL 667(2) 49 C.F.R.392.10 and 392.11

3 points will be assessed regardless of type of vehicle. CMV or Passenger vehicle type is required. If no vehicle type submitted, an error will be received by the court.

2453 CMV Failed to Slow Down at Railroad Crossing

Failure to slow down at railroad crossing grade for vehicle not required to stop MCL 257.669a (1), 49 C.F.R. 392.10 and 392.11

2 points will be assessed. A CMV vehicle type is required. If no cmv vehicle type submitted, an error will be received by the court.

2454 CMV Failed to Stop at Railroad Crossing When Tracks are Not Clear

MCL 257.669a(1), 49 C.F.R.392.10 and 392.11

2 points will be assessed. A CMV vehicle type is required. If no cmv vehicle type submitted, an error will be received by the court.

2455 CMV Failed to Stop at Railroad Crossing

Bus carrying 16 or more passengers, MCL 257.669(1)

Carrying passengers for hire, MCL 257.669(1)

Truck with hazardous material placards failed to stop at railroad crossing, MCL 257.669(1)

School bus failed to stop at railroad crossing, 257.1857(1)

2 points will be assessed. A CMV vehicle type is required. If no cmv vehicle type submitted, an error will be received by the court.

2456 CMV Failed to Drive Completely Through Railroad Crossing Without Stopping

MCL 257.669a(4), 49 C.F.R. 392.10 and 392.11

2 points will be assessed. A CMV vehicle type is required. If no cmv vehicle type submitted, an error will be received by the court.

The Court Liaison position has been reassigned to the Bureau of Driver and Vehicle Records. The Court Liaison, Peggy Leece will be reporting to Fred Bueter, Director of Document Services Division. Peggy's phone number and e-mail address will remain the same; 810.760.2961 leecep@michigan.gov.

Courts must certify abstracts twice a year

Section 732 of the Michigan Vehicle Code, MCL 257.732; MSA 9.2432 requires all courts to submit certification twice a year to the Secretary of State that all abstracts have been forwarded to the Secretary of State. These certifications each cover a six-month period – January 1 through June 30, and July 1 through December 31.

The certification is due no later than 28 days after the period covered in the certification. The form BDVR-103 is to be used when submitting your certification.

These forms may be ordered from the Michigan Department of State, Purchasing and Contracts Section, Lansing, MI 48918; or by fax at 517.335.7338. You may verify or check on an order by telephone at 517.335.2755.

Notice to the Courts, Prosecuting Attorneys, and Law Enforcement Agencies Regarding Reciprocal Driving Privileges

Pursuant to section 302a(2) of the Michigan Vehicle Code [1949 PA 300, as amended by 1990 PA 181; MCL 257.302a; MSA 9.2002(1)], please take note that reciprocal driving privileges were extended to France effective January 4, 1991, and to The Federal Republic of Germany effective November 10, 1997. This means that a person holding a valid driver's license issued by France or Germany may operate a passenger vehicle in Michigan on such license.

Please take further notice that the reciprocal driving privileges extended to France and Germany have not been withdrawn.

If you have any questions concerning this notice, please call the Michigan Department of State, Compliance Division, at 517.373.8252.

REPEAT OFFENDER STATISTICS – 11/30/2002				
	TOTALS 2002 TO YTD	TOTALS 2001	TOTALS 10/1/99 12/31/2000	TOTALS 10/1/99 PRESENT
DWLS RESULTING IN DEATH/INJURY	6	24	10	40
CHILD ENDANGERMENT	268	377	464	1,109
303 REVOKED/DENIED	14,890	17,433	20,368	52,691
904 ADDITIONALS	67,791	96,725	117,261	281,777
IGNITION INTERLOCK	3,595	3,445	3,291	10,331
904C PLATE CONFISCATIONS	19,283	21,577	27,031	67,891
IMMOBILIZATIONS	2,758	5,337	7,408	15,503
FORFEITURES	12	38	104	154
VEHICLES SOLD	3,589	6,865	8,907	19,361
CURRENT REGISTRATION DENIAL RECORDS SINCE JUNE 1, 2000				
	ACTIVE	CLEARED		
REG/DENIAL ALCOHOL	105,413	10,988		
REG/DENIAL DWLS	36,005	7,954		
REG/DENIAL GRAND TOTALS	141,418	18,942		

2003 RECIPROCITY UPDATE

INTERNATIONAL CONVENTIONS AND TREATIES

Residents of countries that are signatories to the 1949 United Nations Convention on Road Traffic may drive in this country if they have a valid license from their country of residence. An international driving permit is not required (see Treaties and International Acts, section 2487 and US Treaties 3 UST 3008).

For licenses that are not in English, an interpreter may be required to determine the license's validity.

Courts and law enforcement should not seize and destroy foreign driver licenses pursuant to Section 625g.

Besides the United States, listed here are the countries that honor international driving permits.

Contracting States Which Honor International Driving Permits (Convention on Road Traffic, United Nations, Geneva 1949) as of June 1993:

Afghanistan*	Rep.	Ghana	Lebanon	Norway	Sudan
Albania	Chad*	Gibraltar	Lesotho	Oman*	Suriname
Algeria	Chile	Greece	Liberia*	Panama	Swaziland
Andorra	Colombia*	Grenada	Libya	Papua New Guinea	Sweden
Angola	Congo	Guatemala	Liechtenstein*	Peru	Switzerland
Antigua*/**	Costa Rica*	Guernsey	Luxembourg	Paraguay	Syria
Argentina	Cuba	Guinea-Bissau*	Macao*	Philippines	Taiwan
Australia	Curacao	Guinea*	Madagascar	Poland	Tanzania
Austria	Cyprus	Guyana	Malawi	Portugal	Thailand
Bahamas	Czech Rep	Haiti	Malaysia	Qatar*	Togo
Bahrain*	Denmark	Honduras*	Mali	Romania	Trinidad & Tobago
Bangladesh	Djibouti*	Hong Kong	Malta	Russia*	Tunisia
Barbados**	Dominica*/**	Hungary	Mauritania*	Rwanda	Turkey
Belgium	Dominican Rep.	Iceland	Mauritius	San Marino	Uganda
Belize	Ecuador	Indonesia*	Mexico*	Sao Tome &	United Arab
Benin	Egypt	Iran*	Monaco	Principe*	Emirates*
Bhutan*	El Salvador*	Ireland	Montserrat*/**	Saudi Arabia*	United Kingdom
Bolivia*	Ethiopia*	Israel	Morocco	Senegal	Upper Volta
Botswana	Fiji	Italy	Mozambique*	Seychelles	(Burkina Faso)*
Brunei*	Finland	Ivory Coast	Namibia*	Sierra Leone	Vatican City
Bulgaria	France (including	Jamaica	Nepal*	Singapore	Venezuela
Burma*	French	Japan	Netherlands	South Africa	Vietnam
Cambodia	Overseas	Jersey	Nevis & Anguilla*/	Spain	Western Samoa
Canada	Territories)	Jordan	**	Sri Lanka	Yemen*
Cape Verde	French Polynesia	Kenya*	New Caledonia	St. Lucia	Yugoslavia
Islands*	Gabon	Korea Rep.	New Zealand	St. Christopher	Zaire
Caymans Islands	Gambia	Kuwait*	Nicaragua*	St. Vincent & The	Zambia
Central African	Germany	Laos	Niger	Grenadines	Zimbabwe

*Not part of 1949 Convention: International Driving Permit Honored.

**U.S. Driver license and International Driving Permit recognized on presentation to local police and payment of Special Registration Fee upon arrival.

***Contracting States Which Honor Inter-American Driving Permits (Convention on Regulation of Inter-American Motor Vehicle Traffic of American States, Washington, D.C. 1943) as of June 1993.

SPECIAL RECIPROCITY AGREEMENT

Under MCL 257.302a, the department must publish a list of countries whose residents need not obtain a Michigan license to operate a vehicle in this state based

on a special agreement, provided they are licensed in their country of residence and they do not receive compensation for vehicle operation. These special agreements allow Michigan residents whose employment requires them to travel in foreign countries to obtain foreign driving privileges and licenses at reduced rates. Currently only France and Germany are on this list.

Railroad Crossing Offense Codes (continued)

2457 CMV Failed to Negotiate Railroad Crossing -Insufficient Undercarriage Clearance (Cross railroad grade crossing without sufficient undercarriage clearance), MCL 257.669a(3), 49 C.F.R.392.10 and 392.11

2 points will be assessed. A CMV vehicle type is required. If no CMV vehicle type submitted, an error will be received by the court.

If these violations occur in a Commercial Motor Vehicle (CMV), the following licensing sanctions shall apply:

- First violation equals 60 day Commercial Driver License (CDL) suspension, MCL 257.319b(1)(a)(ii);
- Second violation within 36 months equals 120 day CDL suspension, MCL 257.319b(1)(b)(ii); and,
- Third or subsequent violation within 36 months equals CDL 1 year suspension, MCL 257.319b(1)(c)(vi).

These sanctions are in compliance with Federal regulations.

These offenses are civil infractions, eligible for abstract and Failure to comply with Judgment (FCJ).

Offense code 2450 Failure to stop at railroad crossing will no longer be used. This offense will only be applicable to offenses prior to 10/01/02.

If offense occurs in a Commercial Vehicle the vehicle type must be submitted on the abstract. The vehicle types are located in the Court Manual, Section II, page 15. The appropriate vehicle type must be submitted on abstract or court will receive an error.

333.1766a in the Public Health Code has been deleted from 257.732(4)(i), therefore, this offense under 9200 offense code is no longer abstracted. This offense will only be applicable to offenses prior to 10/01/02. Two points will be assessed. A CMV vehicle type is required. If no CMV vehicle type submitted, an error will be received by the court.